

§ 125.103

§ 125.103 Definitions.

In addition to the definitions that appear at section 802 of title VIII (42 U.S.C. 3602), the following definitions apply to this part:

Assistant Secretary means the Assistant Secretary for Fair Housing and Equal Opportunity in the Department of Housing and Urban Development.

Expert witness means a person who testifies, or who would have testified but for a resolution of the case before a verdict is entered, and who qualifies as an expert witness under the rules of the court where the litigation funded by this part is brought.

Fair housing enforcement organization (FHO) means any organization, whether or not it is solely engaged in fair housing enforcement activities, that—

(1) Is organized as a private, tax-exempt, nonprofit, charitable organization;

(2) Is currently engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(3) Upon the receipt of FHIP funds will continue to be engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims.

The Department may request an organization to submit documentation to support its claimed status as an FHO.

FHIP means the Fair Housing Initiatives Program authorized by section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note).

Meritorious claims means enforcement activities by an organization that resulted in lawsuits, consent decrees, legal settlements, HUD and/or substantially equivalent agency (under 24 CFR 115.6) conciliations and organization initiated settlements with the outcome of monetary awards for compensatory and/or punitive damages to plaintiffs or complaining parties, or other affirmative relief, including the provision of housing.

Qualified fair housing enforcement organization (QFHO) means any organization, whether or not it is solely engaged in fair housing enforcement activities, that—

24 CFR Subtitle B, Ch. I (4–1–04 Edition)

(1) Is organized as a private, tax-exempt, nonprofit, charitable organization;

(2) Has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(3) Is engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims at the time of application for FHIP assistance.

For the purpose of meeting the 2-year qualification period for the activities included in paragraph (2) of this definition, it is not necessary that the activities were conducted simultaneously, as long as each activity was conducted for 2 years. It is also not necessary for the activities to have been conducted for 2 consecutive or continuous years. An organization may aggregate its experience in each activity over the 3 year period preceding its application to meet the 2-year qualification period requirement.

The Department may request an organization to submit documentation to support its claimed status as a QFHO.

Title VIII means title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3600–3620), commonly cited as the Fair Housing Act.

[60 FR 58452, Nov. 27, 1995, as amended at 61 FR 5206, Feb. 9, 1996]

§ 125.104 Program administration.

(a) FHIP is administered by the Assistant Secretary.

(b) FHIP funding is made available under the following initiatives:

(1) The Administrative Enforcement Initiative;

(2) The Education and Outreach Initiative;

(3) The Private Enforcement Initiative; and

(4) The Fair Housing Organizations Initiative.

(c) FHIP funding is made available in accordance with the requirements of the authorizing statute (42 U.S.C. 3616 note), the regulation in this part, and Notices of Funding Availability (NOFAs), and is awarded through a grant or other funding instrument.

(d) Notices of Funding Availability under this program will be published

periodically in the FEDERAL REGISTER. Such notices will announce amounts available for award, eligible applicants, and eligible activities, and may limit funding to one or more of the Initiatives. Notices of Funding Availability will include the specific selection criteria for awards, and will indicate the relative weight of each criterion. The selection criteria announced in Notices of Funding Availability will be designed to permit the Department to target and respond to areas of concern, and to promote the purposes of the FHIP in an equitable and cost efficient manner.

(e) All recipients of FHIP funds must conform to reporting and record maintenance requirements determined appropriate by the Assistant Secretary. Each funding instrument will include provisions under which the Department may suspend, terminate or recapture funds if the recipient does not conform to these requirements.

(f) Recipients of FHIP funds may not use such funds for the payment of expenses in connection with litigation against the United States.

(g) All recipients of funds under this program must conduct audits in accordance with part 44 or part 45, as appropriate, of this title.

§ 125.105 Application requirements.

Each application for funding under the FHIP must contain the following information, which will be assessed against the specific selection criteria set forth in a Notice of Funding Availability.

(a) A description of the practice (or practices) that has affected adversely the achievement of the goal of fair housing, and that will be addressed by the applicant's proposed activities.

(b) A description of the specific activities proposed to be conducted with FHIP funds including the final product(s) and/or any reports to be produced; the cost of each activity proposed; and a schedule for completion of the proposed activities.

(c) A description of the applicant's experience in formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

(d) An estimate of public or private resources that may be available to assist the proposed activities.

(e) A description of the procedures to be used for monitoring conduct and assessing results of the proposed activities.

(f) A description of the benefits that successful completion of the project will produce to enhance fair housing, and the indicators by which these benefits are to be measured.

(g) A description of the expected long term viability of project results.

(h) Any additional information that may be required by a Notice of Funding Availability published in the FEDERAL REGISTER.

(Approved by the Office of Management and Budget under control number 2529-0033. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.)

§ 125.106 Waivers.

Upon determination of good cause, the Assistant Secretary may waive, in a published Notice of Funding Availability or other FEDERAL REGISTER notice, any requirement in this part that is not required by statute.

§ 125.107 Testers.

The following requirements apply to testing activities funded under the FHIP:

(a) Testers must not have prior felony convictions or convictions of crimes involving fraud or perjury.

(b) Testers must receive training or be experienced in testing procedures and techniques.

(c) Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(1) Have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;

(2) Be a relative of any party in a case;

(3) Have had any employment or other affiliation, within one year, with the person or organization to be tested; or

(4) Be a licensed competitor of the person or organization to be tested in